

CHAPTER 24 NOTARIES PUBLIC

Secs.

2400	Appointment of Notaries
2401	Government Employees
2402	Application and Examination
2403	Signatures and Seals
2404	Notary Sign
2405	Changes in Name, Address, or Office Hours
2406	Reappointments
2407	Certification (authentications) of Notaries Public
2408	Certification of Records
2409	[Reserved]
2410	Denial or Revocation of Licenses
2411	Board of Review
2412	Scheduling Hearings and Continuances
2413	Service of Notices
2414	Failure to Appear for a Hearing
2415	Hearing Procedures
2416	Evidence and Burden of Proof
2417	Transcripts of Hearings
2418	Findings and Decisions
2419	Reopening Proceedings
2420	Judicial Review
2421	Reconsideration and Reinstatement of Licenses
2422	Waiver of Procedural Requirements

2400 APPOINTMENT OF NOTARIES

- 2400.1 New appointments of notaries public shall be made to serve the needs and convenience of members of the public, the bar, financial institutions, and other fiduciary bodies.
- 2400.2 The Mayor may appoint citizens of the United States who are residents of the District of Columbia or whose sole place of business or employment is located in the District.
- 2400.3 Each person requesting to be appointed as a notary public shall indicate to the Mayor the hours during which he or she will be available at a designated place of business in the District.
- 2400.4 Request for appointment as a notary public by a privately employed person shall be made by the employer or an official of the company or business in which the applicant is employed.

- 2400.5 A self-employed person requesting appointment as a notary public must submit the request in writing on his or her official letterhead.
- 2400.6 A letter requesting an appointment of a notary public shall include a statement indicating how service and convenience to members of the public, the bar, financial institutions, or other fiduciary bodies will be enhanced.
- 2400.7 Letters requesting appointment shall be sent to the Secretary of the District of Columbia, District Building, 1350 Pennsylvania Avenue, N.W., Washington, DC 20004.

AUTHORITY: Unless otherwise noted, the authority for this chapter is §558 of An Act to establish a code of law for the District of Columbia, approved March 3, 1901, as amended by An Act to authorize the Commissioners of the District of Columbia to appoint notaries public, 58 Stat. 810, ch. 597, §1, and §402(20) of Reorganization Plan No. 3 of 1967, D.C. Code 1973, Appendix 1 at 152.

SOURCE: §§1.1(a), 1.1(b), 1.1(c), 1.1(d), 1.1(f) of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147 (June 11, 1973), 25 DCRR §1.1.

2401 GOVERNMENT EMPLOYEES

- 2401.1 A person employed in an executive department or other government office shall not be appointed or reappointed a notary public to function for the government business unless his or her appointment is requested by the head of the department or office to facilitate the transaction of government business.
- 2401.2 The commission of a government employee shall be terminated when the employee leaves government service.
- 2401.3 Government employees who desire to exercise notarial powers other than in connection with their government work, or in addition to that work, may be granted a separate commission upon submission of an application and upon compliance with the appointment requirements.
- 2401.4 Government employees who have separate commissions may not charge any fee for notarial service performed during hours of active duty as a government employee.

SOURCE: §§1.1(e) and 1.4(b) of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1148 (June 11, 1973), 25 DCRR §§1.1 and 1.4.

2402 APPLICATION AND EXAMINATION

- 2402.1 Application shall be made on the form furnished by the Mayor, and may be mailed to the Secretary of the District of Columbia.
- 2402.2 Each application shall be supported by letters of endorsement from three (3) or more responsible references.
- 2402.3 Each candidate shall be given an opportunity, by means of an oral examination, to show that he or she has the required knowledge of the powers, duties, and liabilities of notaries public.

SOURCE: §§1.2 and 1.3 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1148 (June 11, 1973), 25 DCRR §§1.2 and 1.3.

2403 SIGNATURES AND SEALS

2403.1 Each notary public commissioned in the District shall file his or her signature in the Office of the Secretary of the District of Columbia.

2403.2 Each notary public commissioned in the District shall deposit an impression of his or her official seal in the Office of the Secretary of the District of Columbia.

SOURCE: §1.6 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1148 (June 11, 1973), 25 DCRR §1.6.

2404 NOTARY SIGN

2404.1 Each notary public must exhibit a sign.

2404.2 The provisions of this section do not apply to notaries functioning in the government service.

SOURCE: §1.4(a) of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1148 (June 11, 1973), 25 DCRR §1.4.

2405 CHANGES IN NAME, ADDRESS, OR OFFICE HOURS

2405.1 Each notary shall inform the Mayor promptly of any change in name, address, or office hours.

SOURCE: §1.4(a) of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1148 (June 11, 1973), 25 DCRR §1.4.

2406 REAPPOINTMENTS

2406.1 When applying for reappointment, a notary public who is entitled under a commission and this chapter to charge fees shall submit a summary of his or her notary business for the three (3) months preceding the date of application for reappointment.

2406.2 The summary of business shall be based on actual records, not estimates.

SOURCE: §1.5 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1148 (June 11, 1973), 25 DCRR §1.5.

2407 CERTIFICATION (Authentications) OF NOTARIES PUBLIC

2407.1 The Mayor shall issue certifications (authentications) of seals and signatures of notaries appointed in the District of Columbia pursuant to §558 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1279; D.C. Code §1-801 *et seq.*, (1981) and this chapter.

2407.2 The following fees shall be charged for the issuance of certifications of notaries public under this section:

(a) 'A' Certificate'\$5.00

(b) 'Foreign Certificate'\$6.00

(c) 'B' Certificate'\$5.00

(d) 'Apostille'\$6.00

SOURCE: §§1.7(a) and 1.7(b) of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147 (June 11, 1973), as added by §302 of District of Columbia Revenue Act of 1983, D.C. Law 5-14.

2408 CERTIFICATION OF RECORDS

2408.1 The Mayor shall issue certifications of the signatures of District of Columbia governmental officials who are required to sign documents of public records.

2408.2 The fee charged for each certification issued under this section shall be \$6.00.

SOURCE: §1.8(a) of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147 (June 11, 1973), as added by §302 of District of Columbia Revenue Act of 1983, D.C. Law 5-14.

2409 [RESERVED]

2410 DENIAL OR REVOCATION OF LICENSES

2410.1 The Mayor may refuse to issue a commission to an applicant or may remove a notary public from office upon determining that the action is necessary in view of the conditions and restrictions as provided in this chapter and by law, as well as upon written complaints received by the Secretary of the District of Columbia.

2410.2 A notice, in writing, of a determination to deny or revoke a commission shall be given by the Mayor to the person concerned.

2410.3 The notice of determination shall explain the following:

- (a) The nature of and grounds for the action;
- (b) The right of the person concerned to be heard on the matter; and
- (c) The finality of the decision to deny or revoke a commission unless the person concerned requests a hearing on the matter by filing a petition for review with the Mayor.

2410.4 A petition for review shall be sent by certified letter to the Secretary of the District of Columbia (See §2400.7) within twenty (20) days after service of the notice to deny or revoke a license.

2410.5 The petition for review shall be signed by the petitioner and shall include the following:

- (a) A request for review of the decision of the Mayor;
- (b) A statement of why the petitioner believes the decision of the Mayor was in error; and
- (c) If the petitioner will be represented by legal counsel, the name, address, and telephone number of that legal counsel.

SOURCE: §§20.1, 20.2, 20.3, and 20.4 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1148 (June 11, 1973), 25 DCRR §§20.1, 20.2, 20.3, and 20.4.

2411 BOARD OF REVIEW

2411.1 A Board of Review (also referred to in this chapter as the "Board"), as established by the Mayor, shall consist of the following:

- (a) The Corporation Counsel or an alternate designated by the Corporation Counsel;
- (b) The Director of the Department of Consumer and Regulatory Affairs or an alternate designated by the Director; and
- (c) A public member who shall be an attorney and a member of the District of Columbia Bar designated by the President of the District of Columbia Bar.

2411.2 The Corporation Counsel or his or her designated alternate shall be the chairperson of the Board.

2411.3 The Office of the Secretary of the District of Columbia shall provide the necessary administrative services for the Board.

2411.4 The Board of Review shall do the following:

- (a) Receive petitions for review sent to the Secretary of the District of Columbia;
- (b) Hold hearings on the issues involved in each case; and
- (c) Make a final determination in each case.

SOURCE: §§21.1 and 21.2 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1149 (June 11, 1973), 25 DCRR §§21.1 and 21.2.

2412 SCHEDULING HEARINGS AND CONTINUANCES

2412.1 If the person concerned does mail a petition for review as provided in §2410, the Board shall, within twenty (20) days after receipt of the petition, notify the person concerned of the time and place of a hearing.

2412.2 The hearing shall be held by the Board not more than sixty (60) days or less than thirty (30) days after the date of service of the notice, unless specifically provided otherwise by law.

2412.3 A hearing scheduled to be conducted by the Board will not be delayed by a motion for a continuance unless the motion is made at least two (2) days before the date on which the hearing is scheduled to be held and, in the opinion of the Chairperson, sets forth good and sufficient cause for a continuance.

2412.4 Conflicting engagements of counsel, absence of counsel, or the employment of new counsel will not be regarded as good and sufficient cause for continuance unless set forth in a motion filed promptly after notice of the hearing has been given.

SOURCE: §§22.1 and 22.4 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1149 (June 11, 1973), 25 DCRR §§22.1 and 22.4.

2413 SERVICE OF NOTICES

2413.1 Any notice required by §2410 or §2412 may be served either personally by a member of the Board or by certified mail, return receipt requested, directed to the person concerned at his last known residence or business address as shown by the records.

2413.2 If notice is served personally, it shall be deemed to have been served at the time when delivery is made to the person concerned.

2413.3 If notice is served by certified mail, it shall be deemed to have been served on the date borne upon the return receipt showing delivery of the notice to the person concerned or refusal of the person concerned to receive notice.

2413.4 If the person concerned is no longer at the last known address as shown by the records and no forwarding address is available, the notice shall be deemed to have been served on the date the return receipt bearing such notification is received by the Board.

SOURCE: §22.2 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1150 (June 11, 1973), 25 DCRR §22.2.

2414 FAILURE TO APPEAR FOR A HEARING

2414.1 If a person who filed a petition for review does not appear and no continuance has been or is granted, the Board may hear the evidence of the witnesses who appear.

2414.2 The Board may also proceed to consider the matter and render a decision on the basis of evidence before it, in the manner required by §2418.

SOURCE: §22.3 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1150 (June 11, 1973), 25 DCRR §22.3.

2415 HEARING PROCEDURES

2415.1 Each hearing before the Board shall be open to the public.

2415.2 At each hearing, at least a majority of the members of the Board shall be present to hear the evidence and render a decision.

2415.3 A person entitled to a hearing shall have the following rights:

- (a) The right to be represented by counsel;
- (b) The right to present all relevant evidence by means of witnesses and books, papers, and other documents;
- (c) The right to examine all opposing witnesses on any matter relevant to the issues; and
- (d) The right, upon making a written request to the Board, to have subpoenas issued to compel the attendance of witnesses and the production of relevant books, papers, and other documents.

2415.4 The Chairperson of the Board shall have authority to do the following:

- (a) Place witnesses under oath and regulate the course of the hearing;
- (b) Rule upon offers of proof and receive relevant evidence;
- (c) Assign exhibit numbers for all written, documentary, and other tangible matter offered in evidence;
- (d) Hold conferences for simplification of the issues, secure admissions or stipulations, determine hearing procedures, and decide other matters that may aid in the conduct of the hearing;
- (e) Dispose of the procedural requests or similar matters including motions to order hearings reopened;
- (f) Call, examine, and cross-examine witnesses, and introduce into the record documentary or other evidence;
- (g) Request the parties at any time during the hearing to state their respective positions concerning any issue in the proceeding and theory in support of that position; and
- (h) Take any other action authorized by these rules or necessary under the provisions of this chapter.

2415.5 Nothing in this section shall preclude other members of the Board from cross-examining witnesses.

2415.6 In connection with any hearing held under this chapter, the Board shall have the power to do the following:

- (a) Request of the Mayor that counsel from the Office of the Corporation Counsel be appointed to represent the District in any case before the Board; Provided, that the Corporation Counsel alternate designated under §2411 may not be responsible to or subject to the supervision or direction of any person appointed as counsel pursuant to this paragraph;
- (b) Administer oaths or affirmations, either personally or through their designated agent, to witnesses called to testify;

- (c) Subpoena respondents and other witnesses and relevant books, papers, and other documents;
- (d) Take testimony and examine witnesses; and
- (e) Direct continuance of any case without regard to the limitation of §2412.2.

2415.7 In proceedings before the Board, if any person refuses to respond to a subpoena, refuses to take the oath or affirmation as a witness, refuses to be examined, or refuses to obey any lawful order of the Board contained in its decision rendered after hearing, the Board may make application to the proper court for an appropriate order.

SOURCE: §§23.1, 23.2, 23.3, 23.4, 23.5, and 23.6 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1150 (June 11, 1973), 25 DCRR §§23.1, 23.2, 23.3, 23.4, 23.5, and 23.6.

2416 EVIDENCE AND BURDEN OF PROOF

2416.1 In all proceedings held by the Board, the Board shall receive and consider any evidence or testimony. However, the Board may exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence or testimony.

2416.2 In any Board proceeding resulting from the Secretary's denial of application for appointment or reappointment, the applicant shall have the burden of satisfying the Board of his or her qualifications.

2416.3 In any Board proceeding resulting from the Secretary's decision to remove a notary public from office, the District shall have the burden of proving that such action should be taken.

SOURCE: §§23.7 and 23.8 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1151 (June 11, 1973), 25 DCRR §§23.7 and 23.8.

2417 TRANSCRIPTS OF HEARINGS

2417.1 In all hearings conducted by the Board, a complete record shall be made of all evidence presented during the course of a hearing.

2417.2 Under the supervision of the presiding officer, each hearing shall be reported stenographically, or by other means, by an official reporter who may be a regular employee of the Board.

2417.3 Copies of the transcript will be available to parties and to the public from the official reporter upon payment of the charges fixed for copies.

SOURCE: §23.9 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1152 (June 11, 1973), 25 DCRR §23.9.

2418 FINDINGS AND DECISIONS

2418.1 The members of the Board who conduct the hearing shall render their decision, in writing, as soon as practicable, but not later than ninety (90) days after the date of the hearing is completed.

2418.2 The decision of the Board shall contain the following:

- (a) Findings of fact made by the Board;
- (b) Application by the Board of the provisions of statutes and this chapter to the facts as found by the Board;
- (c) The decision of the Board based upon findings of fact and the application of the law; and
- (d) A statement informing the person concerned of his or her right to have the Board's decision reviewed by the District of Columbia Court of Appeals, and the time within which that judicial review must be sought.

2418.3 Within five (5) days after the decision is rendered, the Board shall serve a copy of the written decision upon the person concerned, or his or her attorney of record, either personally or by certified mail.

2418.4 If the decision is sent by certified mail, it shall be deemed to have been served on the date contained on the return receipt, or refusal of the person concerned to receive notice or the date of the unsuccessful attempt of the postal service to make delivery.

SOURCE: §§24.1, 24.2, and 24.3 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1152 (June 11, 1973), 25 DCRR §§24.1, 24.2, and 24.3.

2419 REOPENING PROCEEDINGS

2419.1 If, because of accident, sickness, or other good cause, a person fails to receive a hearing or fails to appear for a hearing which he or she has requested, that person may, within thirty (30) days from the date of the decision of the Board, apply to the Board to reopen the proceedings.

2419.2 If the Board finds the cause sufficient, it shall immediately fix a time and place for a hearing and give the person and the Corporation Counsel notice as required by this chapter.

2419.3 The Board may also reopen a proceeding for any other cause sufficient to it, if no appeal is pending before a court or has been decided by a court.

SOURCE: §25.1 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1152 (June 11, 1973), 25 DCRR §25.1.

2420 JUDICIAL REVIEW

2420.1 A person aggrieved by an adverse decision of the Board issued after a hearing may seek a review of the Board's decision by the District of Columbia Court of Appeals.

2420.2 Within the time fixed by rule of the Court, the Board shall certify and file with the Clerk of the Court the record of the case, as follows:

- (a) A copy of the notice of action contemplated, required by §2410;

- (b) A copy of the notice of hearing required by §2412;
- (c) A complete transcript of the testimony taken at the hearing;
- (d) Copies of all pertinent documents and other written evidence introduced at the hearing; and
- (e) A copy of the Board's written decision.

2420.4 The record may be shortened if, with permission of the Court, all parties to the review proceedings so stipulate.

2420.4 Failure to seek judicial review in the manner and within the time that the Court of Appeals prescribes in its rules shall result in the decision of the Board becoming final.

SOURCE: §§25.2 and 25.3 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1153 (June 11, 1973), 25 DCRR §§25.2 and 25.3.

2421 RECONSIDERATION AND REINSTATEMENT OF LICENSES

2421.1 A person whose application has been denied or whose commission has been revoked by the Board may, by filing a new application accompanied by the proper fee, request the Board to reconsider the matter.

2421.2 Upon showing of cause satisfactory to it, the Board may direct the Secretary of the District of Columbia to issue a commission in the usual manner.

SOURCE: §25.4 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1153 (June 11, 1973), 25 DCRR §25.4.

2422 WAIVER OF PROCEDURAL REQUIREMENTS

2422.1 The Board of Review for good cause shown may waive any of the provisions of this chapter in any proceeding after advising the parties of its intention to order the waiver.

2422.2 The provisions of this section shall not empower the Board to waive any provision required by statute.

SOURCE: §31.1 of Regulation No. 73-13, approved May 24, 1973, 19 DCR 1147, 1153 (June 11, 1973), 25 DCRR §31.1.